

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KEVIN DAVIS,

Plaintiff,

v.

DARLA COWAN, *et al.*,

Defendants.

No. 3:20-CV-01106

(Chief Judge Brann)

(Chief Magistrate Judge Mehalchick)

**ORDER**

**FEBRUARY 8, 2023**

Kevin Davis, an inmate in the custody of the Pennsylvania Department of Corrections, filed a Second Amended Complaint pursuant to 42 U.S.C. § 1983, alleging Defendants violated his constitutional rights.<sup>1</sup> On January 3, 2023, the Honorable Karoline Mehalchick, Chief United States Magistrate Judge of this Court, issued a Report and Recommendation recommending that this Court dismiss the complaint, but permit Davis to amend his complaint a third time.<sup>2</sup> Davis was permitted to file objections to Chief Magistrate Judge Mehalchick's Report and Recommendation by January 17, 2023. He did not file any objections.

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<sup>1</sup> Doc. 51.

<sup>2</sup> Doc. 65.

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.<sup>3</sup> Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the findings or recommendations made by the magistrate judge.<sup>4</sup> Upon review of the record, the Court finds no clear error, clear or otherwise, in Chief Magistrate Judge Mehalchick's recommendations. Consequently, **IT IS HEREBY ORDERED** that:

1. Chief Magistrate Judge Mehalchick's Report and Recommendation (Doc. 65) is **ADOPTED**;
2. Davis' Second Amended Complaint (Doc. 51) is **DISMISSED WITHOUT PREJUDICE**.
3. Davis may, within thirty (30) days of the date of this Order, file an amended complaint that addresses the deficiencies identified by Chief Magistrate Judge Mehalchick.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann  
United States District Judge

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<sup>3</sup> Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

<sup>4</sup> 28 U.S.C. § 636(b)(1); M.D. Pa. Local R. 72.31.